

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7395 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MADANLAL DHARAMCHAND SHAH

Versus

DAHIBEN DAUGHTER OF JETHABHAI GANGARAM

Appearance:

MR DK MEHTA for Petitioners

MR SK PATEL for Respondent No. 3

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/09/1999

ORAL JUDGEMENT

1. Challenge has been made by the petitioner to the order of the Gujarat Revenue Tribunal at Ahmedabad dated 22-7-1991 annexure 'C' in Revision Application No. TEN. B.S. 68/89 under which the appeal filed by the petitioner against the order of the Deputy Collector was dismissed.

2. The agreement to sell in respect of the

agricultural land in dispute was held to be void under section 63 (1) (c) of Bombay Tenancy and Agricultural Lands Act, 1948. It is not in dispute that the agreement to sale for this was entered into between the parties on 5-7-1978. It is true that actual sale deed was executed on 4-5-1979 and that too after the Taluka Development Officer granted N.A. permission under section 65 of the Bombay Land Revenue Code but in view of the provisions of section 63 (1)(c) of the Act, this agreement to sell is covered and as it is in favour of the persons who are admittedly not agriculturist, it is illegal and rightly it has been concurrently held so by all the three authorities below.

3. I do not find any illegality in the order passed by the Tribunal, which calls for the interference of this Court under Article 227 of the Constitution. It is true that there may be some delay in initiation of the proceedings under provisions of the Act, 1948 but this aspect has been taken into consideration and the Tribunal has not found it to be a fit case where this contention has to be accepted. Reasons given not to accept this contention of the petitioner by the Tribunal are legal and justified and no interference is called for of this Court in this matter. Delay itself may not be a ground to quash and set aside the proceedings unless the petitioner is able to establish to the satisfaction of the Court that as a result of this delay he is put in an irretrievable position, which is not the case here. The plea has been raised that the petitioner has spent huge amount in development of the land, it is a question of fact which is not accepted by the Tribunal.

4. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-